

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

GHANSHYAMBHA D. PATEL : **DOCKET NO. 13-cv-3214**

(A73-608-682)

VS. : **JUDGE MINALDI**

ERIC HOLDER, JR., ET AL. : **MAGISTRATE JUDGE KAY**

REPORT AND RECOMMENDATION

Before the court is respondent's Rule 12(b)(1) motion to dismiss [doc. 12] the application for a writ of habeas corpus filed by *pro se* petitioner, Ghanshyambha Patel (hereafter, "petitioner"). This matter has been referred to the undersigned magistrate judge for review, report, and recommendation in accordance with 28 U.S.C. § 636(b)(1)(B).

Petitioner filed an application for a writ of habeas corpus pursuant to 22 U.S.C. § 2241, asserting that his continued detention beyond six months is unconstitutional under the Supreme Court's ruling in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Doc. 1.

In its motion to dismiss, the government establishes that petitioner was released from ICE custody under an order of supervision on January 13, 2014. Doc. 12, att. 1, p. 1; doc. 12, att. 2. Because petitioner is no longer detained by ICE, there is no longer a justiciable controversy before the court. *See Alwan v. Ashcroft*, 388 F.3d 507, 511 (5th Cir. 2004).

Accordingly,

IT IS RECOMMENDED that respondent's motion to dismiss be **GRANTED**.

IT IS FURTHER RECOMMENDED that the application for a writ of habeas corpus be **DISMISSED WITHOUT PREJUDICE**.

Under the provisions of 28 U.S.C. §636(b)(1)(C) and Fed. R. Civ. Proc. 72(b), a party

aggrieved by this report and recommendation has 14 days from its service to file specific, written objections with the clerk of court. A party may respond to another party's objections within 14 days after being served with a copy thereof.

Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this report and recommendation within 14 days following the date of its service, or within the time frame authorized by Fed. R. Civ. P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error.

THUS DONE AND SIGNED in Chambers this 18th day of March, 2014.



KATHLEEN KAY
UNITED STATES MAGISTRATE JUDGE